



World Players Association
#WorldPlayersUnited

Mr Witold Banka
President
World Anti-Doping Agency

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WADA governance review and athlete representation

Dear President Banka, Dear Witold,

As you know, the World Players Association (**World Players**) has long advocated for and been committed to the effective reform of the governance of the World Anti-Doping Agency (**WADA**) to build athlete and public trust and confidence in the global anti-doping effort. To this end, it is both important and timely that I directly update you on two important aspects of World Players' involvement with the Working Group on WADA Governance Reforms (**Working Group**):

1. WADA governance; and
2. athlete representation.

As you appreciate, these matters go to the heart of the relationship between organised players and athletes and the global anti-doping system.

1. **WADA governance**

The effective reform of the governance of WADA is essential and urgent to maximise athlete trust and confidence in the global anti-doping effort which is presently absent in important respects due to the ineffective response to systemic doping, athletes being subject to manifestly unjust processes and sanctions, and the lack of meaningful involvement of athletes in the global anti-doping system.

Upon the commencement of the current Working Group process, World Players made a series of constructive recommendations to yourself and the management of WADA that would have greatly enhanced the capacity and process of the Working Group to undertake its important task. Regrettably, the process has so far been characterised by missed opportunities.

For example, World Players together with other athlete groups advocated for the review to be as inclusive as possible of all athlete perspectives. This was required to address the evident disparity within the Working Group's composition between appointees of the sport movement and public authorities and the marginal position of athlete representatives. Instead of the breadth

of athlete perspectives being embraced, an additional member of the WADA Athlete Committee (**WADA AC**) was simply appointed to the Working Group, which failed to address the fundamental issue and merely duplicated the perspective already included.

This approach meant the views and experiences of organised athletes in professional team sports were excluded. This exclusion extended not only to the composition of the Working Group, but also its likely findings. The survey subsequently developed to inform the Working Group's deliberations was tailored to ensure that athlete representation would not address the role of player and athlete unions and the enabling right of freedom of association which underpins the work of those unions.

Instead, it focused on the model of athlete committee and commissions used, favoured and promoted by the sport movement. It also reinforced the approach unambiguously set out to World Players by WADA Director General Olivier Niggli in his letter to me dated 22 March 2021 that the WADA Executive Committee has made it 'abundantly clear' that any athlete representation must 'respect the agreed democratic processes within WADA' and that there is a 'clear distinction between World Players Association administrators and its athlete membership'. Given the self-evident interference this involves in the organisation of World Players as a legitimate international federation of player and athlete associations and the rejection of our proposal to enhance the representativeness of the Working Group, we saw little benefit in completing the survey or making a submission to the Working Group.

At the conclusion of the Working Group's initial consultation, World Players together with our affiliate EU Athletes were invited to meet with the Working Group. At its request, by letter dated 10 August 2021 we made comprehensive proposals on WADA governance and athlete representation based on best practice and internationally recognised human rights. Our recommendations in our letter – which is **attached** – were rejected or ignored by the Working Group in their entirety. On the question of athlete representation, the Working Group has adhered to the approach set out in Mr Niggli's letter.

As a result, the differences between our proposals and the Working Group's recommendations are vast. As summarised in the Annex, instead of embracing the opportunity to produce informed, principled and meaningful recommendations to address WADA's fundamental governance challenges and build effective relations with the athletes of the world, the Working Group's incremental approach will at best have little effect and, we fear, only serve to exacerbate the current crisis. In no way will the systemic exclusion of organised players and athletes be addressed or remedied.

2. Athlete representation

It is telling the Working Group's recommendations in relation to athlete representation perpetuate the longstanding exclusion from WADA's decision making bodies and processes of those 80'000 athletes bound by the WADA Code who have chosen to establish and be represented by player and athlete associations. In doing so, this infringes upon established principles of freedom of association, which, as explained in our letter of 10 August 2021, is an internationally recognised human right that WADA has a special responsibility to protect, respect and uphold. It also denies both WADA and the world's athletes the resources, expertise, solidarity and leverage of player and athlete associations which have an unmatched record in effective athlete representation including in the collective bargaining and implementation of highly effective anti-doping programmes.

This failure not only undermines the rights of those athletes who have been able to exercise their right of freedom of association, it prevents many others from being able to do so thereby structurally undermining the voice of athletes within the global anti-doping system.

Relevant international conventions require respect for freedom of association wherever athletes have the status of workers (which those bound by the WADA Code almost always do). This means they have the right to form and join independent organisations – such as the player and

athlete associations affiliated to World Players – and be represented by individuals who they freely choose in accordance with the democratic processes of those organisations.

Whether the chosen individuals who lead the organisations are current or former athletes – or otherwise – is a matter for the athletes to determine with respect to who they consider can most effectively protect and advance their collective interests. This right extends to joining and affiliating with national, regional, or international federations or confederations to advance their collective interests. The formation and organisation of World Players is a consequence of the exercise of this right.

Although there can be a role for consultative bodies like the various athlete commissions and committees such as the WADA AC used, favoured and promoted by the sport movement, these bodies established by management must not replace, substitute, or undermine the role of player or athlete associations.

The Working Group's recommendations conflict with these established principles in several respects. In particular:

- eligibility to be an athlete representative is arbitrarily defined and constrained. Under the proposed definition, an athlete representative cannot be a player or athlete association, or another person or entity freely chosen by the athletes which WADA deems ineligible. Accordingly, those athletes that do choose to join an association and be represented by an association will necessarily not be represented in the manner they choose in respect of WADA and anti-doping more broadly;
- given the recommendations perpetuate the model of athlete commissions and committees used, favoured and promoted by the sport movement, many individuals designated as athlete representatives for WADA's purposes will hold legal duties and obligations to the sport movement which will fundamentally interfere and conflict with their independence and their capacity to advance and act in the best interests of athletes;
- notwithstanding its reconstitution, the WADA AC will continue to undermine or function as a substitute for the role of player and athlete associations. Indeed, the Working Group's recommendations propose to elevate the WADA AC from a body established to 'provide expertise to the Executive Committee' to 'a forum for the broader athlete community' through the WADA Athletes' Council which will 'provide input to all the WADA organs through its representation on them'; and
- given athlete representation is confined to a body within WADA, athlete representation is legally placed under the control or influence of the governance and management of WADA with its influence and resources to be determined accordingly.

More broadly, it is clear even WADA's own appointed athlete representatives are from time to time subject to acts of discrimination or intimidation without protection or support where they have advocated for alternate perspectives, further highlighting the inherent limits of the model of representation the Working Group is now seeking to perpetuate.

Recognising freedom of association is a straightforward matter for WADA, the public authorities, and the sport movement. Three simple actions are required:

- **Action #1: Commit** to protect, respect and fulfil internationally recognised human rights, including the rights of athletes to freedom of association and to organise and collective bargaining;
- **Action 2: Recognise** the representatives of those athletes who have exercised their right to freedom of association and to organise and collective bargaining, starting with World Players, **and promote** respect for that right throughout the global anti-doping system; and

- **Action 3: Do no harm**, including by not acting in a way which undermines or violates the rights of athletes to be represented in accordance with their internationally recognised human rights.

Embracing these actions are not only essential to ensuring athlete representation is respected as a human right and a fundamental element of good governance. They will equally protect athletes from harm as seen through the ongoing and widespread revelations of abuse of athletes throughout the sport movement.

WADA's observance with such fundamental principles of freedom of association cannot continue to be ignored given they are embedded within the international legal order and the domestic systems of the public authorities who are signatories to the WADA Code. Recommendations in relation to athlete representation must therefore be entirely consistent with these three actions.

It is not too late for WADA to address these matters, and we note that the Working Group identifies the role of athlete associations and player unions as an 'open issue'. However, attention to them is long overdue and urgently required. This will necessarily require meaningful and ongoing engagement with World Players. As you know, we have tabled a comprehensive athlete rights impact assessment proposal with you which – together with addressing the matters in this letter – can provide the foundations to meaningfully move forward to our shared goal of a global anti-doping system which is effective and enjoys the trust and confidence of the athletes.

On the other hand, should WADA continue to choose to fail to respect and embed freedom of association, this will necessitate a fundamental recalibration of its relationship with World Players, our affiliates, and the organised athletes we represent. Any system which by design excludes athletes and their chosen representatives yet seeks to compulsorily bind them to it fails the tests of democracy and legitimacy.

Yours sincerely,



Brendan Schwab
Executive Director

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cc: World Players Anti-Doping Working Group
Working Group on the Review of WADA Governance Reforms
Ben Sandford, Chair WADA Athlete Committee
Olivier Niggli, WADA Director General

Annex: The gap between World Players and Working Group reform positions

The Governance of WADA	
World Players Proposal	Working Group Position
<p><i>Pillar #1: Establish a tripartite partnership in the Foundation Board</i></p> <ul style="list-style-type: none"> • Athletes become bound by the WADA Code but have no representation in creating it. • The solution lies in extending the bilateral partnership between the sport movement and the public authorities to the athletes and creating a tripartite partnership in which all three stakeholders have equal representation. • Athlete representatives should be determined in accordance with the three essential actions set out below under 'Athlete Representation'. 	<ul style="list-style-type: none"> • Says the 'equal partnership between public authorities and the sport movement' cannot as general principle be diminished vis a vis other stakeholders. That is, it does not consider athletes equal partners. • Perpetuates conflicts of interest with four 'athlete seats' tied to the sport movement. However, these athletes have a legal duties and obligations to the sport movement which may not be in the best interests of athletes. • Two additional seats have been proposed for the WADA AC, although this is to be reconstituted as a representative body that excludes player and athlete associations from WADA's decision-making processes.
<p><i>Pillar #2: Ensure the Executive Committee and leadership of WADA is fully independent</i></p> <ul style="list-style-type: none"> • All Executive Committee members should be independent of sport, government, and athletes. • The Executive Committee should be equally accountable to the sport movement, public authorities, and athletes. • The Executive Committee should have the requisite skills, experiences, and diversity to lead the world's anti-doping effort. • It should be of a size that ensures it operates strategically and makes informed, knowledge-based, and objective decisions without the suggestion of political influence or conflicts of interest. • Executive Committee members should not hold current office within the sport movement, a public authority and as an athlete representative. • A reasonable cooling-off period (such as two years) should apply to Executive Committee membership. 	<ul style="list-style-type: none"> • Retains conflicted model of stakeholder representation between the sport movement and public authorities. • So-called 'independent Executive Committee members' are ultimately appointed from among the sport movement and public authorities with no cooling off periods required. • Seeks to expand the size of the Executive Committee which may not enable more effective decision making. • In many ways, continues with the problematic duplication of the Foundation Board, thereby highlighting conflicts of interest and undermining the accountability of the Executive Committee. • The Executive Committee continues to lack any meaningful and formal accountability to athletes given that it remains accountable to the Foundation Board in which the athlete voice is, at best, marginal.

The Governance of WADA (cont'd)	
World Players Proposal	Working Group Position
<p><i>Pillar 3: Reform the global anti-doping system of arbitration and justice</i></p> <ul style="list-style-type: none"> • Reformation of the governance of WADA requires the strict separation of powers between the legislative, executive, and judicial functions of the global anti-doping system. • This is required to ensure public and stakeholder confidence, and that decisions are rendered in a timely and rights compliant way. • Critical decisions on compliance must not be perceived as politicised through conflicted governance structure. 	<ul style="list-style-type: none"> • Access to effective remedy and reformation of the Court of Arbitration for Sport (CAS) were excluded from the scope of the Working Group process. • No meaningful action taken to address these challenges.
<p><i>Pillar #4: Embed the internationally recognised human rights of athletes into the governance, activities and relationships of WADA</i></p> <ul style="list-style-type: none"> • Guaranteeing that WADA and the global anti-doping system is governed in a way that protects and respects the human rights of those most affected by the system – the athletes - is essential. • World Players has separately shared an 'Athlete Rights Impact Assessment' with WADA a first step to ensuring this can be done. 	<ul style="list-style-type: none"> • Despite athlete representation being a central question for the Working Group and a matter of human rights, the human rights of athletes were excluded from the scope of the Working Group process. • No meaningful action taken by WADA in relation to the <i>Athlete Rights Impact Assessment</i> proposal (despite this having been presented to representatives of WADA more than a year ago).
Athlete Representation	
World Players Proposal	Working Group Position
<p><i>Athlete representation is a matter for the athletes. Three key actions for WADA, the public authorities and the sport movement</i></p> <p>Action #1 Commit to uphold their international obligations, including to protect, respect and fulfil internationally recognised human rights, including the rights of athletes to freedom of association and to organise and collective bargaining;</p>	<p>Action #1: Despite WADA's special responsibility to protect internationally recognised human rights as an agency of business and government, it is yet to make a commitment to uphold these rights including as they relate to freedom of association and athlete representation.</p>

Athlete Representation (cont'd)

World Players Proposal	Working Group Position
<p>Action #2 Recognise the representatives of those athletes who have exercised their right to freedom of association, starting with World Players, and promote respect for that right throughout the global anti-doping system; and</p> <p>Action #3 Do no harm: not act in a way which undermines or violates the rights of athletes to be represented in accordance with their internationally recognised human rights.</p>	<p>Action #2: The Working Group position clearly maintains that the position of athletes in relation to the governance of the global anti-doping system will at best be marginal. In relation to the players and athletes represented by affiliates of World Players it is non-existent.</p> <p>Action #3: The Working Group contemplates several restrictions on who can be an athlete representative within WADA. In doing so, it is effectively drawing on the athlete commission and committee model used, favoured and promoted by the sport movement that has been recommended for review and reform by internationally renowned experts in an expert report commissioned by the International Olympic Committee.</p> <p>The restrictions conflict with principles of freedom of association and may harm athletes in many ways including by:</p> <ul style="list-style-type: none"> • excluding established, strong, and independent representative bodies such as World Players and its affiliates will exacerbate existing power imbalances in global sport; • depriving athletes access to the same experience and expertise that public authorities and the sport movement can draw upon from the spheres of law, politics, business puts them at a significant disadvantage in advancing their interests; and • volunteers on a consultative or advisory committee, no matter how well intentioned, cannot replicate the level of professionalisation, service or representativeness provided through player or athlete associations.